

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

JOSE BERRIOS MORENO,  
Plaintiff,

v.

Civil No. 3:21cv91 (DJN)

DEPARTMENT OF HOMELAND SECURITY, *et al.*,  
Defendants.

**MEMORANDUM OPINION**

By Memorandum Order entered on March 15, 2021, the Court conditionally docketed Plaintiff's civil action. (ECF No. 2.) At that time, the Court directed Plaintiff to submit a statement under oath or penalty of perjury that:

- (A) Identifies the nature of the action;
- (B) States his belief that he is entitled to relief;
- (C) Avers that he is unable to prepay fees or give security therefor; and,
- (D) Includes a statement of the assets he possesses.

*See* 28 U.S.C. § 1915(a)(1) (permitting courts to authorize suit without prepayment of fees upon submission of an affidavit with the above information). The Court provided Plaintiff with an *in forma pauperis* affidavit form for this purpose.

Additionally, the Court directed Plaintiff to affirm his intention to pay the full filing fee if he did not continue to pursue *in forma pauperis* status. The Court warned Plaintiff that a failure to comply with either of the above directives within thirty (30) days of the date of entry thereof would result in summary dismissal of the action.

Plaintiff has not complied with the Court's order to complete and return the provided affidavit. As a result, he does not qualify for *in forma pauperis* status. Furthermore, he has not paid the statutory filing fee for the instant action. *See* 28 U.S.C. § 1914(a) (requiring the payment of filing fees). Plaintiff's conduct demonstrates a willful failure to prosecute under

Federal Rule of Civil Procedure 41(b). Accordingly, this action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall issue.

Let the Clerk file a copy of this Memorandum Opinion electronically and send a copy to Plaintiff.

/s/

  
David J. Novak  
United States District Judge

Dated: April 20, 2021  
Richmond, Virginia